

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

JAMES R. TROLICE,  
LEE P. VACCARO, and  
PATRICK G. MACKARONIS,

Defendants.

2:16-cv-02513-WJM-MF

**CONSENT OF DEFENDANT LEE P. VACCARO**

1. Defendant Lee P. Vaccaro (“Defendant”) acknowledges having been served with the Complaint in this action, enters a general appearance, and admits the Court’s jurisdiction over Defendant and over the subject matter of this action.

2. Defendant has pleaded guilty to criminal conduct relating to certain matters alleged in the Complaint in this action. Specifically, in *United States v. Vaccaro*, Crim. No. 16-254 (D.N.J.), Defendant pleaded guilty to one count of conspiracy to commit securities fraud in violation of 18 U.S.C. § 371 and one count of securities fraud in violation of 15 U.S.C. §§ 78j(b) and 78ff, 17 C.F.R. § 240.10b-5, and 18 U.S.C. § 2. In connection with that plea, Defendant admitted the facts set out in the transcript of his plea allocution that is attached as Exhibit A to this Consent. This Consent shall remain in full force and effect regardless of the existence or outcome of any further proceedings in *United States v. Vaccaro*.

3. Defendant hereby consents to the entry of the Judgment in the form attached hereto (the “Judgment”) and incorporated by reference herein, which, among other things,

permanently restrains and enjoins Defendant from violating Sections 5(a) and 5(c) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. §§ 77e(a) and 77e(c)]; Section 15(a) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78o(a)]; Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)]; Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5]; and Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 (“Advisers Act”) [15 U.S.C. §§ 80b-6(1) and (2)].

4. Defendant agrees that the Court shall order disgorgement of ill-gotten gains, prejudgment interest thereon, and a civil penalty pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], Section § 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)], and Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9(e)]. Defendant further agrees that the amounts of the disgorgement and civil penalty shall be determined by the Court upon motion of the Commission, and that prejudgment interest shall be calculated from the dates of the violations set out in the Complaint, based on the rate of interest used by the Internal Revenue Service for the underpayment of federal income tax as set forth in 26 U.S.C. § 6621(a)(2). Defendant further agrees that in connection with the Commission’s motion for disgorgement and/or civil penalties, and at any hearing held on such a motion: (a) Defendant will be precluded from arguing that he did not violate the federal securities laws as alleged in the Complaint; (b) Defendant may not challenge the validity of this Consent or the Judgment; (c) solely for the purposes of such motion, the allegations of the Complaint shall be accepted as and deemed true by the Court; and (d) the Court may determine the issues raised in the motion on the basis of affidavits, declarations, excerpts of sworn deposition or investigative testimony, and documentary evidence, without regard to the standards for summary judgment contained in Rule 56(c) of the Federal Rules of Civil Procedure. In connection with the Commission’s motion for

disgorgement and/or civil penalties, the parties may take discovery, including discovery from appropriate non-parties.

5. Defendant agrees that he shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made pursuant to any insurance policy, with regard to any civil penalty amounts that Defendant pays pursuant to the Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors. Defendant further agrees that he shall not claim, assert, or apply for a tax deduction or tax credit with regard to any federal, state, or local tax for any penalty amounts that Defendant pays pursuant to the Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors.

6. Defendant waives the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure.

7. Defendant waives the right, if any, to a jury trial and to appeal from the entry of the Judgment.

8. Defendant enters into this Consent voluntarily and represents that no threats, offers, promises, or inducements of any kind have been made by the Commission or any member, officer, employee, agent, or representative of the Commission to induce Defendant to enter into this Consent.

9. Defendant agrees that this Consent shall be incorporated into the Judgment with the same force and effect as if fully set forth therein.

10. Defendant will not oppose the enforcement of the Judgment on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure, and hereby waives any objection based thereon.

11. Defendant waives service of the Judgment and agrees that entry of the Judgment by the Court and filing with the Clerk of the Court will constitute notice to Defendant of its terms and conditions. Defendant further agrees to provide counsel for the Commission, within thirty days after the Judgment is filed with the Clerk of the Court, with an affidavit or declaration stating that Defendant has received and read a copy of the Judgment.

12. Consistent with 17 C.F.R. § 202.5(f), this Consent resolves only the claims asserted against Defendant in this civil proceeding. Defendant acknowledges that no promise or representation has been made by the Commission or any member, officer, employee, agent, or representative of the Commission with regard to any criminal liability that may have arisen or may arise from the facts underlying this action or immunity from any such criminal liability. Defendant waives any claim of Double Jeopardy based upon the settlement of this proceeding, including the imposition of any remedy or civil penalty herein. Defendant further acknowledges that the Court's entry of a permanent injunction may have collateral consequences under federal or state law and the rules and regulations of self-regulatory organizations, licensing boards, and other regulatory organizations. Such collateral consequences include, but are not limited to, a statutory disqualification with respect to membership or participation in, or association with a member of, a self-regulatory organization. This statutory disqualification has consequences that are separate from any sanction imposed in an administrative proceeding. In addition, in any disciplinary proceeding before the Commission based on the entry of the injunction in this

action, Defendant understands that he shall not be permitted to contest the factual allegations of the complaint in this action.

13. Defendant understands and agrees to comply with the terms of 17 C.F.R. § 202.5(e), which provides in part that it is the Commission's policy "not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings." As part of Defendant's agreement to comply with the terms of Section 202.5(e), Defendant acknowledges the guilty plea for related conduct described in paragraph 2 above, and: (i) will not take any action or make or permit to be made any public statement denying, directly or indirectly, any allegation in the complaint or creating the impression that the complaint is without factual basis; (ii) will not make or permit to be made any public statement to the effect that Defendant does not admit the allegations of the complaint, or that this Consent contains no admission of the allegations; (iii) upon the filing of this Consent, Defendant hereby withdraws any papers filed in this action to the extent that they deny any allegation in the complaint; and (iv) stipulates for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, that the allegations in the complaint are true, and further, that any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Defendant under the Judgment or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Defendant of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19). If Defendant breaches this agreement, the Commission may petition the Court to vacate the Judgment and restore this action to its active docket. Nothing in this paragraph affects

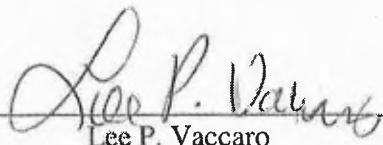
Defendant's: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which the Commission is not a party.

14. Defendant hereby waives any rights under the Equal Access to Justice Act, the Small Business Regulatory Enforcement Fairness Act of 1996, or any other provision of law to seek from the United States, or any agency, or any official of the United States acting in his or her official capacity, directly or indirectly, reimbursement of attorney's fees or other fees, expenses, or costs expended by Defendant to defend against this action. For these purposes, Defendant agrees that Defendant is not the prevailing party in this action since the parties have reached a good faith settlement.

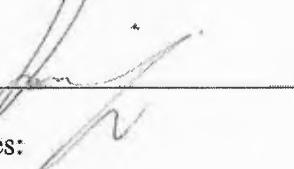
15. Defendant agrees that the Commission may present the Judgment to the Court for signature and entry without further notice.

16. Defendant agrees that this Court shall retain jurisdiction over this matter for the purpose of enforcing the terms of the Judgment.

Dated: 9/13/16

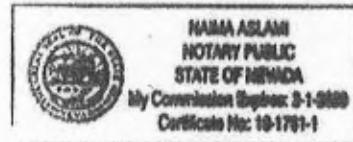
  
Lee P. Vaccaro

On Sep 13<sup>th</sup>, 2016, Lee Vaccaro, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent.

  
Notary Public  
Commission expires:

Approved as to form:

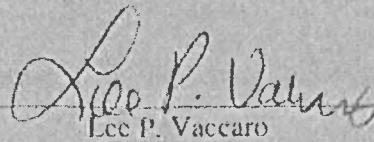
Robert C. Scrivo  
McElroy, Deutsch, Mulvaney & Carpenter, LLP  
1300 Mt. Kemble Avenue  
P.O. Box 2075  
Morristown, NJ 07962-2075  
(973) 425-8729  
Attorney for Defendant



16. Defendant agrees that this Court shall retain jurisdiction over this matter for the purpose of enforcing the terms of the Judgment.

Dated:

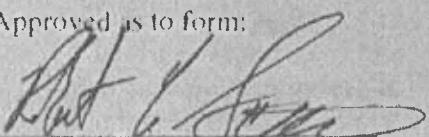
9/12/16

  
Lee P. Vaccaro

On \_\_\_\_\_, 2016, \_\_\_\_\_, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent.

Notary Public  
Commission expires:

Approved as to form:



Robert C. Scirvo  
McElroy, Deutsch, Mulvaney & Carpenter, LLP  
1300 Mt. Kemble Avenue  
P.O. Box 2075  
Morristown, NJ 07962-2075  
(973) 425-8729  
Attorney for Defendant

## **EXHIBIT A**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
CRIMINAL NO 16-CR-254 (WJM)

UNITED STATES OF AMERICA,

LEE VACCARO,

**DEFENDANT.**

TRANSCRIPT OF  
(PROCEEDINGS)

Newark, New Jersey  
Date: June 2, 2016

B E F O R E : HONORABLE WILLIAM J. MARTINI,  
UNITED STATES SENIOR JUDGE

## A P P E A R A N C E S:

DANIEL SHAPIRO, ESQ  
(Assistant United States Attorney)  
For the Government

ROBERT C. SCRIVO, ESQ  
(McElroy, Deutsch, Mulvaney & Carpenter, LLP)  
For the Defendant

Pursuant to Section 753 Title 28 United States Code, the following transcript is certified to be an accurate record as taken stenographically in the above-entitled proceedings.

S/Yvonne Davion  
Yvonne Davion, CCR  
Official Court Reporter

1                   THE COURT: This is the matter of United States  
2 versus Lee Vaccaro.

3                   Can I have appearances of Counsel?

4                   MR. SHAPIRO: Good morning. Assistant United  
5 States Attorney Daniel Shapiro for the government. Good  
6 morning.

7                   MR. SCRIVO: Good morning. Robert Scrivo; McElroy  
8 for Morristown for Mr. Vaccaro who is to my right.

9                   THE COURT: Nice to see you. I understand Mr.  
10 Vaccaro is here in offer of plea of guilty to an information.  
11 Is that correct?

12                  MR. SCRIVO: That is correct, Judge.

13                  THE COURT: Can we have him sworn, please?

14                  L E E   V A C C A R R O , sworn.

15                  EXAMINATION BY THE COURT:

16                  Q. Mr. Vaccaro, if you could just keep your voice up and  
17 speak into the microphone, please. That's fine.

18                  A. Yes, sir.

19                  Q. That's good.

20                  A. How old are you, sir?

21                  A. Forty four.

22                  Q. And you understand and speak English?

23                  A. I do.

24                  Q. Do you have any medical or psychiatric condition which  
25 would interfere with your understanding me?

1           A. I do not, your Honor.

2           Q. Have you taken any medications or alcohol or drugs in  
3           the last 24 hours to the extent it would interfere with your  
4           understanding me?

5           A. No, sir.

6           Q. All right. You have an attorney Mr. Scrivo.

7                         Are you satisfied with his services?

8           A. Yes, sir, I am.

9           Q. And has he provided you with what's called the  
10          Information which is the docket which sets forth the criminal  
11          charge against you?

12          A. Yes, sir.

13                         THE COURT: And that consists of two counts,  
14          correct, Mr. Shapiro?

15                         MR. SHAPIRO: Yes, your Honor.

16                         THE COURT: All right.

17          Q. Did he go over each of those charges with you, Count 1  
18          and Count 2?

19          A. Yes, your Honor.

20          Q. Do you understand that these are felony charges? Which  
21          means that under the law, instead of pleading guilty here  
22          today, you would have the right to have these matters referred  
23          to what's called the federal Grand Jury which is a group of  
24          citizens that would listen to evidence presented by the  
25          government alone. And they would determine whether or not

1           there is enough evidence to charge you.

2                   Do you understand that?

3           A.    Yes, I do.

4           Q.    By pleading guilty you are giving up that right to be  
5                 reviewed by the Grand Jury. What it means, on a rare occasion  
6                 the Grand Jury may say to the government, we don't think you  
7                 have enough evidence. We're not going to return a charge  
8                 against this person at this time.

9                   Do you understand that?

10          A.    Yes, sir.

11          Q.    So, by pleading guilty you are giving up that right.

12                   Do you understand that?

13          A.    Yes, your Honor.

14          Q.    Have you discussed it with your lawyer?

15          A.    I have, your Honor.

16          Q.    Are you giving up that right voluntarily, without  
17                 anybody forcing you to do that?

18          A.    I am, your Honor.

19          Q.    There's a waiver of indictment form.

20                   THE COURT: Counsel, do you have that and the plea  
21                 agreement?

22          Q.    Mr. Vaccaro, did you go over that form with your  
23                 lawyer?

24          A.    I did and I signed it.

25          Q.    Did you sign it?

1 A. Yes, your Honor.

2 Q. Did you sign it voluntarily?

3 A. I did.

4 Q. Do you know by signing that, you are indicating to the  
5 Court that you understand the right and you are giving it up  
6 voluntarily.

7 Is that true?

8                   A. I do.

9 THE COURT: Mr. Scrivo, did you witness him sign  
10 it?

11 MR. SCRIVO: I did.

12 THE COURT: Can you hand it up, please, and I will  
13 sign it.

I am satisfied that the defendant's made a knowing  
and voluntary waiver of his right to have the matter referred  
to the Grand Jury. And I will sign the waiver of indictment  
form and file it with the Court Clerk. Okay.

18 Q. The Information charges as follows: It charges that in  
19 or about 2009 to in or about 2015 in New Jersey you did  
20 knowingly and willfully combine, conspire and confederate and  
21 agree with co-conspirator number 1 and others to create  
22 offenses against the United States, namely securities fraud by  
23 using and employing through the direct and indirect use of  
24 means and instrumentalities of interstate commerce and the  
25 mails, manipulative and deceptive devices and contrivances,

1           contrary to Title 17 section 24.1(B)5, Rule 10(B)5 it's  
2           referred to, in connection with the purchase and sale of  
3           securities by employing devices and schemes to defraud members  
4           of the investing public.

5           Two, by making untrue statements of material facts and  
6           omitting to state material facts necessary in order to make the  
7           statements made in the light of the circumstances under which  
8           they were made, not misleading.

9           And three, engaging in acts and practices in the course  
10          of business which operated and would operate as engaging in  
11          acts and practices in the course of business which operated and  
12          would operate as a fraud and deceit upon investors. Namely, by  
13          participating in a scheme to defraud investors seeking to  
14          purchase interest and wanting to purchase the stock of eAgency  
15          contrary to our federal law. That's Count 1.

16          And Count 2 charges that from on or about 2009 through  
17          2015 in Jersey and elsewhere you did knowingly and willfully  
18          directly and indirectly by use of means and instrumentalities  
19          in interstate commerce in the mails used and caused to be used  
20          manipulated and deceptive devices and contrivances, again  
21          contrary to section Rule 10(B)5 in connection with the purchase  
22          and sale of securities by employing devices, schemes and  
23          artifices to defraud members of the investing public by making  
24          untrue statements of material fact.

25          And C, engaging in acts, practices in the course of

1 business which operated and would operate as a fraud upon  
2 investors, again contrary to our federal laws.

3 Now, if I accept your plea of guilty to these two  
4 counts, you are faced with a penalty of up to five years in  
5 prison on each count. Well, no, on Count 1, a penalty of up to  
6 five years in prison. That's a conspiracy charge. And a fine  
7 of up to around \$250,000.

8 Do you understand that?

9 A. Yes, your Honor.

10 Q. Also on Count 2 of the information you're faced with a  
11 penalty of up to 20 years in prison and a fine of up to or  
12 around \$5 million.

13 Do you understand that?

14 A. Yes, your Honor.

15 Q. Now, you also have to pay a hundred dollars' assessment  
16 to the Court on each of those counts. And I will have to order  
17 that you pay restitution to any victims of the offense. Also  
18 the Court may impose what's call a term of supervised release  
19 of not more than three years which would begin at the  
20 expiration of any terms of imprisonment you may have to serve.

21 Do you understand that?

22 A. Yes, your Honor.

23 Q. You should also understand if you violate any of the  
24 terms and conditions of supervised release, in all likelihood  
25 you will either have to serve more time in jail, more time on

1 supervised release, or both.

2 Do you understand that?

3 A. Yes, your Honor.

4 Q. You should also understand there's no parole in the  
5 federal system. Which means that if I do impose a custodial  
6 sentence, you will actually have to serve 85 to 90 percent of  
7 that custodial sentence in a prison facility.

8 Do you understand that?

9 A. Yes, your Honor.

10 Q. Now, are you a citizen of the United States?

11 A. I am, your Honor.

12 Q. Okay. You should also understand that by pleading  
13 guilty, you are giving up certain rights that you have as a  
14 defendant charged with a federal felony charge.

15 Most importantly, you are giving up your right to  
16 what's called a jury trial, which is a procedure in a courtroom  
17 like this in which you are presumed to be innocent. And the  
18 government would have to prove to 12 citizens unanimously that  
19 you're guilty of this offense beyond a reasonable doubt.

20 Do you understand that?

21 A. I do.

22 Q. And the burden is on the government to prove that  
23 against you. You have no duty, as a person presumed to be  
24 innocent, to present any defense or to testify in your own  
25 behalf.

1                   Do you understand that?

2                  A. Yes, your Honor.

3                  Q. If you choose to remain silent, the jury is not  
4                  permitted to infer any wrongdoing or guilt against you for  
5                  that.

6                   Do you understand that?

7                  A. Yes.

8                  Q. And I would charge them accordingly if you wish me to.

9                   Do you understand that?

10                 A. Yes.

11                 Q. Also you should understand at such a jury trial you  
12                 would have the right to have a lawyer. And if you couldn't  
13                 afford a lawyer, I would appoint one for you at no charge to  
14                 you.

15                   Do you understand that?

16                 A. Yes, your Honor.

17                 Q. These are all rights you are giving up by pleading  
18                 guilty today.

19                   Do you understand that?

20                 A. I do, your Honor.

21                 Q. Have you discussed them with your lawyer?

22                 A. I have, your Honor.

23                 Q. Are you giving them up knowingly and voluntarily,  
24                 without anybody forcing you to do that?

25                 A. I am.

1           Q. Okay. There's also I see a plea agreement dated  
2 April 27, 2016.

3           Is that your signature on page 7 of that agreement?

4           A. Yes, your Honor.

5           Q. And did you sign it on April 28, 2016 after you read it  
6 over and you discussed it with your lawyer and he answered any  
7 questions you may have had about that?

8           A. Yes, your Honor.

9           Q. And did you sign it voluntarily without anybody forcing  
10 you to do that?

11          A. Yes, your Honor.

12          Q. Now, you should understand this is a full and complete  
13 agreement between you and the government.

14          What that means is if someone promises you something  
15 that's not in this agreement, it's of no binding effect on  
16 either you or the government.

17          Do you understand that?

18          A. Yes, your Honor.

19          Q. You should also understand when it comes to the  
20 sentence to be imposed, that's my responsibility as the Judge.  
21 And while we have what's called Sentencing Guidelines that I  
22 look to for guidance, they are not mandatory. They are  
23 advisory.

24          And I could, if I thought it was a reasonable sentence,  
25 impose a sentence up to the maximum I just explained to you a

1           few moments ago.

2                          Do you understand that?

3           A. Yes, your Honor.

4           Q. Also I see in this plea agreement on page 8 what's  
5           referred to as Schedule A. You and the government have agreed  
6           on certain stipulations. What that means is those are  
7           agreements between you and the government. They are not  
8           binding on me, although most of the time I will agree with  
9           them.

10                  But, if I were to make a finding that's contrary to  
11           something that you stipulated to with the government, you would  
12           not have the right to withdraw your guilty plea.

13                  Do you understand that?

14           A. Yes, your Honor.

15           Q. All right. Also in paragraphs 12 and 13 of the  
16           Schedule A, you're limiting what's called your right to appeal.  
17           What that means is after I sentence you, under the law, you  
18           would have the right to appeal my sentence to a higher court  
19           for review and consideration.

20                  Do you understand that?

21           A. Yes, your Honor.

22           Q. By the language in those two paragraphs, you're  
23           restricting that right as per the language in those two  
24           paragraphs.

25                  Do you understand that?

1           A. Yes, your Honor.

2           Q. Did you go over that with your lawyer before you agreed  
3 to it?

4           A. I did, your Honor.

5           Q. And are you agreeing to that voluntarily as well  
6 without anybody forcing you to do that?

7           A. I am.

8           Q. There's a Form 11 questionnaire which your lawyer is  
9 showing you right now.

10           Is that your signature on that form?

11           MR. SCRIVO: He's going to sign it right now,  
12 Judge.

13           THE COURT: All right.

14           Q. Are those truthful, accurate and complete answers to  
15 those questions on the Form 11?

16           A. Yes, your Honor.

17           Q. You just signed it. Are you signing it voluntarily  
18 today?

19           A. I am.

20           Q. Do you understand by signing it, you are representing  
21 that they are indeed your truthful, complete and accurate  
22 answers to those questions.

23           Is that correct?

24           A. Yes, your Honor.

25           Q. Now, in order for me to accept the guilty plea, I need

1 to know what you did that makes you guilty of that offense.

2                 Please listen to the questions that will be asked by  
3 the Assistant United States Attorney Mr. Shapiro. And  
4 depending on your answers, I will determine if I could accept  
5 your plea. Okay?

6                 A. Yes, your Honor.

7 EXAMINATION BY MR. SHAPIRO:

8                 Q. Mr. Vaccaro, were you the chief marketing officer and  
9 vice-president of investor relations for eAgency from in or  
10 about July 2009 through in or about October 2013?

11                A. Yes, sir.

12                Q. Were you also the founder of Vaccaro Consultants,  
13 Vaccaro Consultant and Vacarro with one C Consultants?

14                A. Yes, sir.

15                Q. From in or about 2009 to in or about 2015, did you  
16 conspire with the individual referred to as co-conspirator  
17 number 1 in the Information to defraud investors seeking to  
18 purchase interest in warrants to purchase the stock of the  
19 agency?

20                A. Yes, sir.

21                Q. Was the purpose of this conspiracy to enrich yourselves  
22 by soliciting investors to give you money purportedly to invest  
23 in the eAgency based on material misrepresentations?

24                A. Yes, sir.

25                Q. Was it part of the conspiracy that from in or about

1           2009 to in or about 2015, you and co-conspirator number 1 sold  
2 investors interest in companies you controlled which are  
3 referred to here as the investment companies?

4           A. Yes, sir.

5           Q. Was it further part of the conspiracy that you and  
6 co-conspirator number 1 falsely represented to investors that  
7 the investment companies held a certain number of warrants in  
8 the eAgency stock?

9           A. Yes, sir.

10          Q. Was it further part of the conspiracy that to solicit  
11 investors for the investment companies, you and co-conspirator  
12 number 1 made oral and written misrepresentations concerning  
13 the existence number, validity and term of eAgency warrants  
14 purportedly owned by the investment companies?

15          A. Yes, sir.

16          Q. Was it further part of the conspiracy that  
17 co-conspirator number 1 made misrepresentations to investors  
18 about the amount of money co-conspirator number 1 had  
19 personally invested in the agency? The amount of money  
20 co-conspirator number 1 had raised for eAgency? And  
21 co-conspirator number 1's current position at eAgency?

22          A. Yes, sir.

23          Q. Was it further part of the conspiracy that you and  
24 co-conspirator number 1 created and showed to investors  
25 numerous forged documents purporting to reflect the issuance of

1           warrants to entities controlled by you and the transfer of  
2           those warrants to, among others, a company controlled by  
3           co-conspirator number 1?

4           A. Yes, sir.

5           Q. In reality, was it the case that most of the eAgency  
6           warrants purportedly transferred by you to co-conspirator  
7           number 1's company had never been issued?

8           A. Yes, sir.

9           Q. Was it further part of the conspiracy that beginning in  
10          or around January 2011, the dollar amount of interest you and  
11          co-conspirator number 1 sold in the investment companies began  
12          to surpass the dollar amount of valid warrants held by the  
13          investment companies?

14          A. Yes, sir.

15          Q. Was it further part of the conspiracy that when this  
16          occurred, neither you nor co-conspirator number 1 disclosed to  
17          investors the risk that their investment would be diluted by  
18          the sale of additional interests in the investment companies?

19          A. Yes, sir.

20          Q. Was it further part of the conspiracy that you and  
21          co-conspirator number 1 defrauded investors of more than \$5  
22          million in this manner?

23          A. Yes, sir.

24          Q. On or about April 7, 2010, did you send a wire transfer  
25          of approximately \$100,000 to co-conspirator number 1's bank

1 account in New Jersey representing a portion of the proceeds  
2 from defrauding the individual identified as victim number 1 in  
3 the information?

4 A. Yes, sir.

5 Q. Are you pleading guilty because you are, in fact,  
6 guilty of the offenses charged in the information?

7 A. Yes, sir.

8 MR. SHAPIRO: Your Honor, the United States  
9 represents that had this matter proceeded to trial, the  
10 government would be prepared to prove all of the essential  
11 elements of counts 1 and 2 of the Information to a jury beyond  
12 a reasonable doubt.

13 And that based on this representation and the  
14 defendant's answers to the foregoing questions, we believe  
15 there is a sufficient factual basis to accept the guilty plea.

16 THE COURT: All right. Thank you, Mr. Shapiro.

17 EXAMINATION BY THE COURT:

18 Q. Mr. Vaccaro, how do you plead to count 1 of the  
19 Information? Guilty or not guilty?

20 A. Guilty.

21 Q. How do you plead to count 2 of the Information?

22 A. Guilty, your Honor.

23 Q. Based upon your sworn answers here in open court, as  
24 well as your sworn answers in the Form 11 questionnaire, it's  
25 the finding of the Court in the case of United States versus

1           Lee Vaccaro, that the defendant is fully competent and capable  
2           of entering an informed plea.

3           That the defendant is aware of the nature of the  
4           charges and the consequences of the plea. And that the plea of  
5           guilty is a knowing and voluntary plea supported by an  
6           independent basis in fact containing each of the essential  
7           elements of the offenses. The plea is, therefore, accepted and  
8           the defendant is now adjudged guilty of that offense.

9           Do we have a sentencing date?

10           THE CLERK: September 13th at 11 a.m.

11           THE COURT: All right. Also I have before me a  
12           consent judgment and order of forfeiture which the defendant  
13           has signed and the government has signed as well.

14           Q. You understand what this is, Mr. Vaccaro?

15           A. Yes, your Honor.

16           Q. It's basically you're agreeing to enter a judgment  
17           against you in favor of the United States in the amount of  
18           \$5,437,691.85.

19           Is that your understanding.

20           A. That is my understanding, your Honor.

21           THE COURT: All right. I will sign it and date it  
22           June 2nd and file it with the Court. All right.

23           Conditions of release are continued without  
24           objection, Mr. Shapiro?

25           MR. SHAPIRO: Yes, your Honor.

1 THE COURT: Thank you.

2 (Whereupon the matter was concluded)

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